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March 26, 2021

The Honorable Jocelyn G. Boyd  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
101 Executive Center Drive, Suite 100  
Columbia, South Carolina 29210

Re: Docket No. 2020-247-A. Public Service Commission Review of South Carolina Code of Regulations Chapter 103 Pursuant to S.C. Code Ann. Section 1-23-120(J).

Dear Ms. Boyd:

The SouthWest Water ("SWWC") utilities appreciate the opportunity to comment on the Commission Staff Proposed Minimum Filing Requirements ("MFRs") for Class A Water and Wastewater Utilities.

We commend Commission staff for proposing limiting the proposed MFRs to Class A water and wastewater utilities. We are also pleased that Commission staff recognize that different MFRs are appropriate for water and wastewater utilities. In the same vein, the SouthWest Water utilities believe MFRs for water and wastewater companies should be considered in a separate forum, in which Commission staff and interested parties can focus on the unique aspects of these utilities' rate cases.

The current MFRs in S.C. Code Reg. §§ 103-512 and 103-712 are robust. They include items that make the basis and effect of an application for adjustment of rates readily understandable. The requirements include the proposed rates, an income and expense statement for the preceding twelve months, the proposed test year, a pro forma income and expense statement using the proposed rates applied to proposed test year, the company's balance sheet, depreciation schedules, customer counts, cost justifications for proposed changes in rates, and plant investment. The existing regulations, which are familiar to the Commission, would serve as a better point of departure for MFRs than ones based on the regulatory structure of an unfamiliar jurisdiction.

The Commission staff proposes to adopt the MFRs of the Arkansas Public Service Commission with some modifications. The Arkansas Public Service Commission ("Arkansas PSC") is organized differently from South Carolina's Commission. Arkansas' regulatory structure resembles South Carolina's before Act 175 of 2004. Arkansas has commissioners, commission staff, and regulatory staff ("Arkansas staff") under one roof. The Arkansas staff's Natural Gas and Water Utilities and Pipeline section functions similarly to the Office of Regulatory Staff. It conducts audits and *"its experts present recommendations to the Commission through pre-filed*

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*testimony and oral testimony subject to cross-examination during public evidentiary hearings."*<sup>1</sup>  
The Arkansas staff may also provide general guidance to applicants.<sup>2</sup>

There is little information with which to evaluate the effectiveness of Arkansas' MFRs. Only Class A water companies are presumptively regulated in Arkansas and wastewater utilities are not regulated.<sup>3,4</sup> Just two water utilities: Liberty Utilities (Arkansas Water) Corp. and Liberty Utilities (Pine Bluff Water) Inc. qualify.<sup>5</sup> United Water Arkansas, Inc. ("United"), Liberty Utilities (Arkansas Water) Corp.'s predecessor, brought the last water rate case in 2006.<sup>6</sup> If the Commission bases new MFRs on those of another state, it would better to use a jurisdiction that has contemporary experience with their implementation.

United's application in 2006 had 251 pages of publicly available exhibits. The level of detail of the information accompanying the application is comparable to what a South Carolina utility provides ORS during its audit of a rate case. While utilities make such data available to the parties in a case with appropriate safeguards, it is neither necessary, nor useful in a public filing. One of the Consumer Advocate stated reasons recommending the Arkansas MFRs was "*applications are confusing to most consumers [due to] ... the length of the filings and complicated tables and charts that accompany them.*". We respectfully suggest the proposed MFRs would neither make rate case filings easier to understand nor less complicated.

The United application was also preceded by a motion for a broad protective order, which was granted. The Commission will need to extend similar protection if the proposed MFRs are adopted, as they require private and competitively sensitive information such as executive salaries and compensation packages.

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<sup>1</sup> <http://www.apscservices.info/util.asp>

<sup>2</sup> Rule 8.05, Arkansas PSC Rules of Practice and Procedure.

<sup>3</sup> A majority of the customers of a water utility with gross revenues exceeding \$400,000 may opt for regulation. *Id.* There are presently no water utilities in Arkansas regulated under this provision.

<sup>4</sup> Ark. Code Ann. §§ 23-1-101(9)(A)(ii)(b), 23-1-101(9)(A)(vi)(b) (Lexis Advance through March 10, 2021; and also includes all laws regardless of effective date through Act 71 of the 2021 Regular Session, and Acts 87, 94, 135, 151, 153, 154, 217, 221, 224, 248, 253, 281, 306, 307, and 311 "herein "A.C.A.")

<sup>5</sup> [http://www.apscservices.info/companytype\\_results.asp?companytype=water&certified=1](http://www.apscservices.info/companytype_results.asp?companytype=water&certified=1)

<sup>6</sup> Docket No. 06-0160-U. In the matter of the Application of the United Water Arkansas, Inc. for Approval of a General Change in Rates and Tariffs.

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Regarding the specifics of the proposed MFRs, the SWWC utilities favor staff removing the schedules listed in paragraph 2 of its recommendation. We ask the Commission to clarify whether responding “N/A” is sufficient to address the minimum filing requirement when the utility does not have a requested item such as an audited financial statement or a cost-of-service study. In some jurisdictions a MFR only needs to be addressed, and a utility can answer “N/A” if it does not have a requested item. The SWWC utilities also offer these comments on specific proposed MFRs:

Item No.	Item description / comment
<b>App. C – E-5</b>	<b>Audited Financial Statements</b>
	Water and wastewater utilities rarely (if ever) have audited financial statements in rate cases. Larger companies often do not have audits at the subsidiary level. <sup>7</sup> Therefore, a utility that does not have audited financials should be given the option of answering “N/A” to this requirement. The ORS thoroughly audits the company's income and expenses in a rate case. Requiring the company to provide an independent audit when it files a rate case would unnecessarily increase rate case expenses ultimately borne by the ratepayer. The requirement could also deter companies from using the most recent test year because of the lack of a completed audit.
<b>3.d.</b>	<b>Senior Executive Compensation (Appendix F)</b>
	South Carolina has no publicly traded water companies. Salary information is confidential and competitively sensitive. If a party wants to challenge a salary expense it may do so, but mandating disclosure of salaries with a rate case application is unduly intrusive. The request would also be inapplicable to utilities that operate as subsidiaries of larger parent companies and account for operating expenses, including executive salaries, through a cost allocation formula. If this MFR is intended to require disclosure of executive compensation at the parent company level, the SWWC object because the information is irrelevant and beyond the Commission’s jurisdiction. If salary information is required, the MFR should specify that it is to be filed under seal and only disclosed to the parties under a confidentiality agreement.
<b>3.f.</b>	<b>f. Performance and Operational Metrics:</b>
	If this data is required, it should be adopted in a rulemaking procedure. Data such as customers per mile of pipeline, if available, is not necessarily probative of a company's performance, nor is revenue per employee. We also would like

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<sup>7</sup> See e.g., the application of United Water Arkansas, Inc. referred to in note 6 in which the utility was not audited separately from its parent company.

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	to better understand the item, "Executive Compensation Opportunity vs. Achieved" to comment.
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New MFRs would have a significant lasting impact on utilities and ratepayers. The cost of complying with the proposed MFRs could be a significant burden on utilities and ultimately their ratepayers. Any new MFRs should be considered carefully, and the current proceeding does not lend itself to the required level of consideration. In a separate proceeding, the Commission could receive detailed information from interested stakeholders and achieve a result more helpful to all concerned.

With best wishes, I am,

Sincerely yours,

*s/ Charlie Terreni*

Charles L.A. Terreni

c: counsel of record